

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

RANDY NICKLESS,)	No. ED96149
)	
Appellant,)	
)	
v.)	Appeal from the Labor and Industrial
)	Relations Commission
SAINT GOBAIN CONTAINERS, INC.,)	Appeal No. 10-16779 R-A
)	
and,)	
)	
DIVISION OF EMPLOYMENT SECURITY,)	
)	
Respondents.)	Filed: October 25, 2011

Randy Nickless appeals the judgment of the Labor and Industrial Relations Commission denying him unemployment benefits. The Commission found that Employee had been sleeping on the job and that sleeping on the job constituted misconduct such that he was precluded from receiving benefits.

AFFIRMED.

DIVISION TWO HOLDS: The Commission did not err in denying Mr. Nickless unemployment benefits. The issue of whether employee was sleeping on the job is one of fact to which we defer to the Commission's finding. Sleeping on the job, with limited exceptions, constitutes misconduct.

Opinion by: Kenneth M. Romines, J.
Kathianne Knaup Crane, P.J., concurs.
Lawrence E. Mooney, J., concurs in result.

Attorneys for Appellant: Meagan E. Breeze

Attorneys for Respondents: Bart A. Matanic and Michael Eugene Cook Pritchett
(Division of Employment Security)
Dennis Donnelly, Jeffery Martin Mallamad and Carolyn Clay
Hall (Saint-Gobain Containers, Inc.)

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
